

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WILLIAM R. RONGEY, individually, and on
behalf of all others similarly situated,

Plaintiffs,

vs.

ANSELMO LINDBERG & ASSOCIATES,
LLC,

Defendant.

Case No. 1:18-cv-04613

District Judge Jorge L. Alonso

Magistrate Judge Gabriel A. Fuentes

INITIAL STATUS REPORT

Pursuant to this Court's June 14, 2019 MINUTE entry [Doc. #50], the parties submit their Initial Status Report.

1. Description of Claims and Relief Sought

a. Summary of Claims.

Plaintiff's position. If late charges are tied to overdue monthly payments, the absence of a monthly payment obligation after acceleration and before reinstatement precludes the imposition of late charges for that period. *See Rizzo v. Pierce & Assocs.*, 351 F.3d 791, 794 (7th Cir. 2003). While the subject mortgage provides for late fees when a monthly payment has not been made within fifteen days of the date on which it was due, monthly payments are not "due" once the mortgage loan is accelerated. Accordingly, Defendant's statements that (1) "[b]ecause of ... late charges ... the amount due on the day you pay may be greater;" is deceptive, false, and misleading once the loan is accelerated and Plaintiff and members of the putative class have failed to reinstate the mortgage loan because it creates the false impression that Plaintiff and members of the putative class are subject to additional late fees that cannot be charged to the mortgage loan due to the absence of a monthly payment obligation after acceleration and before reinstatement; therefore, violating 15 U.S.C. §§ 1692e, e(2), e(5), and e(10). Plaintiff seeks to certify a class.

Defendant's position. Defendant disagrees with Plaintiff's analysis of applicable law about acceleration and denies that its letter violated the FDCPA. Defendant does not believe that a class can or should be certified.

b. Relief Sought. Statutory damages for Plaintiff in an amount of \$1,000 and the amount as the court may allow for all other class members, without regard to a

minimum individual recovery, not to exceed the lesser of \$500,000.00 or 1 per centum of the net worth of Defendant and the costs of the action, together with reasonable attorney's fees as determined by the court. Defendant does not believe that a class can or should be certified.

2. **Referral of Matters.** This case is referred to the magistrate judge for discovery supervision, with authority to extend deadlines, and a settlement conference. *See* Dkt. 20.
3. **Status of Discovery.** Responses to Mandatory Initial Discovery (MIDP) were served by Plaintiff and Defendant on October 12, 2018. The parties have completed written and oral discovery but will continue to work within Fed. R. Civ. P. 37 to resolve certain disputes. Fact discovery closed on May 16, 2019. Dkt. 47
4. **ESI Discovery.** This case did not involve ESI discovery but may involve ESI discovery to the extent a class is certified and class member data is provided.
5. **Status of Settlement.** Pursuant to Magistrate Judge Cummings' minute order of May 16, 2019, Dkt. 47, the parties have exchanged settlement positions in writing. Plaintiff has proposed a classwide settlement and Defendant has responded with an individual offer.

DATED: June 21, 2019

Respectfully submitted,

/s/ James C. Vlahakis

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